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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

JEFFREY KATZ, individually and on) Case No.
behalf of all others similarly situated,)

Plaintiff,)

vs.)

**CONTRA COSTA SELF HELP
FOUNDATION INC.; TUNISIA
ISMALIA EVANS AL-
SALAHUDDIN**, and DOES 1 – 10,
inclusive,)

Defendant(s).)

CLASS ACTION

**COMPLAINT FOR VIOLATIONS
OF:**

1. NEGLIGENT VIOLATIONS OF
THE TELEPHONE CONSUMER
PROTECTION ACT [47 U.S.C.
§227 ET SEQ.]
2. WILLFUL VIOLATIONS OF THE
TELEPHONE CONSUMER
PROTECTION ACT [47 U.S.C.
§227 ET SEQ.]

DEMAND FOR JURY TRIAL

Plaintiff, JEFFREY KATZ (“Plaintiff”), on behalf of himself and all others
similarly situated, alleges the following upon information and belief based upon
personal knowledge:

NATURE OF THE CASE

1. Plaintiff brings this action for himself and others similarly situated
seeking damages and any other available legal or equitable remedies resulting from

1 the illegal actions of CONTRA COSTA SELF HELP FOUNDATION INC. and
2 TUNISIA ISMALIA EVANS AL-SALAHUDDIN (collectively, “Defendants”), in
3 negligently, knowingly, and/or willfully contacting Plaintiff via “telephone
4 facsimile machine” in violation of the Telephone Consumer Protection Act, 47
5 *U.S.C. § 227 et seq.* (“TCPA”), thereby causing Plaintiff and all others similarly
6 situated to incur the costs of receiving unsolicited advertisement messages via
7 “telephone facsimile machines” and invading their privacy.

8 **JURISDICTION & VENUE**

9 2. Jurisdiction is proper under 28 *U.S.C. § 1332(d)(2)* because Plaintiff,
10 a resident of California, seeks relief on behalf of a Class, which will result in at
11 least one class member belonging to a different state than that of Defendants, which
12 are entities formed and headquartered in other states and individuals residing in
13 California. Plaintiff also seeks up to \$1,500.00 in damages for each facsimile
14 transmission in violation of the TCPA, which, when aggregated among a proposed
15 class in the thousands, exceeds the \$5,000,000.00 threshold for federal court
16 jurisdiction. Therefore, both diversity jurisdiction and the damages threshold under
17 the Class Action Fairness Act of 2005 (“CAFA”) are present, and this Court has
18 jurisdiction.

19 3. Venue is proper in the United States District Court for the Northern
20 District of California pursuant to 28 *U.S.C. § 1391(b)(2)* because Defendant does
21 business within the state of California and Plaintiff resides within this District.

22 **PARTIES**

23 4. Plaintiff, JEFFREY KATZ (“Plaintiff”), is a natural person residing
24 in San Francisco County, California and is a “person” as defined by 47 *U.S.C. §*
25 *153 (39)*.

26 5. Defendant, CONTRA COSTA SELF HELP FOUNDATION
27 (hereinafter, “Defendant FOUNDATION” or “FOUNDATION”), is a business
28

1 entities that provides community services and a “person” as defined by 47 U.S.C.
2 § 153(39).

3 6. Defendant, TUNISIA ISMALIA EVANS AL-SALAHUDDIN
4 (hereinafter “AL-SALAHUDDIN”) is the Chief Financial Officer of Defendant
5 FOUNDATION. As FOUNDATION’s Chief Financial Officer, Defendant AL-
6 SALAHUDDIN played a significant, material role in FOUNDATION’s overall
7 success as well as its telephone marketing practices and procedures. AL-
8 SALAHUDDIN was responsible for FOUNDATION’s overall success. AL-
9 SALAHUDDIN is a “person” as defined by 47 U.S.C. § 153(39).

10 7. Defendants FOUNDATION and AL-SALAHUDDIN will be referred
11 to collectively and hereinafter as “Defendants”.

12 8. The above named Defendant, and its subsidiaries and agents, are
13 collectively referred to as “Defendants.” The true names and capacities of the
14 Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are
15 currently unknown to Plaintiff, who therefore sues such Defendants by fictitious
16 names. Each of the Defendants designated herein as a DOE is legally responsible
17 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend the
18 Complaint to reflect the true names and capacities of the DOE Defendants when
19 such identities become known.

20 9. Plaintiff is informed and believes that at all relevant times, each and
21 every Defendant was acting as an agent and/or employee of each of the other
22 Defendants and was acting within the course and scope of said agency and/or
23 employment with the full knowledge and consent of each of the other Defendants.
24 Plaintiff is informed and believes that each of the acts and/or omissions complained
25 of herein was made known to, and ratified by, each of the other Defendants.

26 **FACTUAL ALLEGATIONS**

27 10. Beginning in or around June of 2018, Defendants contacted Plaintiff
28 on his telephone facsimile numbers ending in -3052 in an effort to sell or solicit

1 their services.

2 11. Defendants contacted Plaintiff via facsimile from telephone numbers
3 confirmed to belong to Defendants.

4 12. Defendants contacted Plaintiff on or around June of 2018 in an effort
5 to solicit their business.

6 13. Defendants' messages constituted "telephone solicitation" as defined
7 by the TCPA, 47 U.S.C. § 227(a)(4) and "unsolicited advertisement" as defined by
8 the TCPA, 47 U.S.C. § 227(a)(5).

9 14. Defendants used an "telephone facsimile machine" as defined by 47
10 U.S.C. § 227(a)(3) to place its facsimile transmissions to Plaintiff seeking to sell or
11 solicit their business services.

12 15. Defendants' facsimile transmissions constituted facsimile
13 transmissions that were not for emergency purposes as defined by 47 U.S.C. §
14 227(b)(1)(A).

15 16. Defendants' facsimile transmissions were placed to telephone
16 facsimile numbers assigned to a telephone service for which Plaintiff incurs a
17 charge for incoming messages.

18 17. Plaintiff is not a customer of Defendants' services and has never
19 provided any personal information, including his telephone facsimile number, to
20 Defendants for any purpose whatsoever. Accordingly, Defendants never received
21 Plaintiff's "prior express consent" to receive facsimile transmissions using a
22 telephone facsimile machine pursuant to 47 U.S.C. § 227(b)(1)(C).

23 18. Furthermore, the messages that Defendants sent to Plaintiff lacked the
24 "opt-out" notice pursuant to 47 U.S.C. § 227(b)(2)(D).

25 **CLASS ALLEGATIONS**

26 19. Plaintiff brings this action on behalf of himself and all others similarly
27 situated, as a member of the proposed class (hereafter "The Class") defined as
28 follows:

1 All persons within the United States who received any
2 telephone facsimile messages from Defendants to said
3 person's telephone facsimile number made through the
4 use of any telephone facsimile machine and such person
5 had not previously consented to receiving such messages
6 and such messages did not contain any opt-out notice
7 within the four years prior to the filing of this Complaint

8 20. Plaintiff represents, and is a member of, The Class, consisting of All
9 persons within the United States who received any telephone facsimile messages
10 from Defendants to said person's telephone facsimile number made through the use
11 of any telephone facsimile machine and such person had not previously not
12 provided their telephone facsimile number to Defendants within the four years prior
13 to the filing of this Complaint, nor did the telephone facsimile message contain an
14 opt-out notice.

15 21. Defendants, their employees, and their agents are excluded from The
16 Class. Plaintiff does not know the number of members in The Class, but believes
17 the Class members number in the thousands, if not more. Thus, this matter should
18 be certified as a Class Action to assist in the expeditious litigation of the matter.

19 22. The Class is so numerous that the individual joinder of all of its
20 members is impractical. While the exact number and identities of The Class
21 members are unknown to Plaintiff at this time and can only be ascertained through
22 appropriate discovery, Plaintiff is informed and believes and thereon alleges that
23 The Class includes thousands of members. Plaintiff alleges that The Class members
24 may be ascertained by the records maintained by Defendants.

25 23. Plaintiff and members of The Class were harmed by the acts of
26 Defendants in at least the following ways: Defendants illegally contacted Plaintiff
27 and Class members via their telephone facsimile numbers thereby causing Plaintiff
28 and Class members to incur certain charges or reduced telephone facsimile time for

1 which Plaintiff and Class members had previously paid by having to retrieve or
2 administer messages left by Defendants during those illegal facsimile
3 transmissions, and invading the privacy of said Plaintiff and Class members.

4 24. Common questions of fact and law exist as to all members of The
5 Class which predominate over any questions affecting only individual members of
6 The Class. These common legal and factual questions, which do not vary between
7 Class members, and which may be determined without reference to the individual
8 circumstances of any Class members, include, but are not limited to, the following:

- 9
- 10 a. Whether, within the four years prior to the filing of this Complaint,
11 Defendants sent telephone facsimile messages (other than for
12 emergency purposes or made with the prior express consent of the
13 called party and with an opt-out notice contained in the messages) to
14 a Class member using any telephone facsimile machine to any
15 telephone number assigned to a telephone facsimile service;
 - 16 b. Whether Plaintiff and the Class members were damaged thereby, and
17 the extent of damages for such violation; and
 - 18 c. Whether Defendants should be enjoined from engaging in such
19 conduct in the future.

20 25. As a person who received numerous messages from Defendant using
21 a telephone facsimile machine, without Plaintiff's prior express consent, Plaintiff
22 is asserting claims that are typical of The Class.

23 26. Plaintiff will fairly and adequately protect the interests of the members
24 of The Class. Plaintiff has retained attorneys experienced in the prosecution of class
25 actions.

26 27. A class action is superior to other available methods of fair and
27 efficient adjudication of this controversy, since individual litigation of the claims
28 of all Class members is impracticable. Even if every Class member could afford
individual litigation, the court system could not. It would be unduly burdensome to
the courts in which individual litigation of numerous issues would proceed.

1 Individualized litigation would also present the potential for varying, inconsistent,
2 or contradictory judgments and would magnify the delay and expense to all parties
3 and to the court system resulting from multiple trials of the same complex factual
4 issues. By contrast, the conduct of this action as a class action presents fewer
5 management difficulties, conserves the resources of the parties and of the court
6 system, and protects the rights of each Class member.

7 28. The prosecution of separate actions by individual Class members
8 would create a risk of adjudications with respect to them that would, as a practical
9 matter, be dispositive of the interests of the other Class members not parties to such
10 adjudications or that would substantially impair or impede the ability of such non-
11 party Class members to protect their interests.

12 29. Defendants have acted or refused to act in respects generally
13 applicable to The Class, thereby making appropriate final and injunctive relief with
14 regard to the members of the California Class as a whole.

15 **FIRST CAUSE OF ACTION**

16 **Negligent Violations of the Telephone Consumer Protection Act**

17 **47 U.S.C. §227 et seq.**

18 30. Plaintiff repeats and incorporates by reference into this cause of
19 action the allegations set forth above.

20 31. The foregoing acts and omissions of Defendants constitute numerous
21 and multiple negligent violations of the TCPA, including but not limited to each
22 and every one of the above cited provisions of 47 U.S.C. § 227 et seq.

23 32. As a result of Defendants' negligent violations of 47 U.S.C. § 227 et
24 seq., Plaintiff and the Class Members are entitled an award of \$500.00 in statutory
25 damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

26 33. Plaintiff and the Class members are also entitled to and seek
27 injunctive relief prohibiting such conduct in the future.

28 **SECOND CAUSE OF ACTION**

Knowing and/or Willful Violations of the Telephone Consumer Protection Act
47 U.S.C. §227 et seq.

34. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above.

35. The foregoing acts and omissions of Defendants constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

36. As a result of Defendants' knowing and/or willful violations of *47 U.S.C. § 227 et seq.*, Plaintiff and the Class members are entitled an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.

37. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests judgment against Defendant for the following:

FIRST CAUSE OF ACTION

Negligent Violations of the Telephone Consumer Protection Act
47 U.S.C. §227 et seq.

- As a result of Defendants' negligent violations of *47 U.S.C. §227(b)(1)*, Plaintiff and the Class members are entitled to and request \$500 in statutory damages, for each and every violation, pursuant to *47 U.S.C. 227(b)(3)(B)*; and
- Any and all other relief that the Court deems just and proper.

SECOND CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection Act
47 U.S.C. §227 et seq.

- As a result of Defendants' willful and/or knowing violations of *47*

- Any and all other relief that the Court deems just and proper.

38. Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff reserves their right to a jury on all issues so triable.

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